

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

OHIO CITIZEN ACTION,

Plaintiff,

:

Case No. 3:05-cv-263

-vs-

District Judge Walter Herbert Rice

Chief Magistrate Judge Michael R. Merz

:

CITY OF ENGLEWOOD,

Defendant.

STIPULATED PROTECTIVE ORDER

This Order is entered pursuant to Chief Magistrate Judge Michael R. Merz's Decision and Order. [Doc. #66.]

1. This Order permits the disclosure in the course of this action of the records or other tangible items in Judge Merz's Decision and Order (Doc. #66 at 6.), to defend this pending action. The Order does not otherwise affect any objections to discovery made pursuant to the Federal Rules of Civil Procedure.
2. Such records or other tangible items must be designated as subject to this Protective Order by conspicuously containing the phrase "UNDER PROTECTIVE ORDER" on each page.
3. Such records shall be made available to defendant for this litigation through the undersigned counsel. Said counsel shall not disclose any of the records or information contained in them to any person or entity other than such employees or agents of counsel, including any expert, defendant, necessary to prepare for and prosecute this litigation.
4. Neither the parties, nor their counsel, nor any individual to whom they have made disclosure shall himself/herself make any disclosure of information covered under this Order. The sole

purposes for which any discovery materials disclosed to the parties shall be used by the parties or their attorneys is to prepare for and to prosecute this litigation.

5. When any documents designated “UNDER PROTECTIVE ORDER,” including discovery responses, initial disclosures, portions of transcripts, or any other pleadings or papers disclosing or referring to such protected material, are used in connection with any motion, or pretrial hearing, or are otherwise submitted to the Court, they shall be filed under seal and marked as follows:

CONFIDENTIAL/SUBJECT TO A PROTECTIVE ORDER:

This envelope contains documents that are subject to a protective order of this Court. The contents are not to be revealed to anyone except the Court, or with the prior written consent of the parties herein, or pursuant to any order of this Court.

However, per authority of *Procter & Gamble Co. v. Bankers Trust Co.*, 78 F.3d 219 (6th Cir. 1996), no document may be filed with the Court under seal without prior permission as to each such filing, upon motion and for good cause shown, including the legal basis for filing under seal. This Protective Order does not authorize filing under seal.; it merely describes the method of filing under seal if permission is granted.

6. Materials designated as “confidential” may be used at trial to the extent they are admissible.
7. This Order does not constitute a waiver by defendant or plaintiff of any right to object to discovery or admission into evidence of any document or record subject to this Order.
8. Upon conclusion of this action (including appeals), all copies of documents released to the parties under this Order, and any copies made by the parties for use for any reason whatsoever in the litigation, excepting exhibits entered into evidence, shall be returned to counsel for plaintiff within thirty days of written request by said counsel.

<i>s/Edward A. Icové</i> Edward A. Icové (0019646) Icové Legal Group, Ltd. 50 Public Square Suite 627 Cleveland, Ohio 44113 (216) 802-0000 Fax: (216) 802-0002 Email: ed@icovelegal.com Attorney for Plaintiff	<i>s/Lynnette Ballato Dinkler</i> Lynnette Ballato Dinkler(65455) Subashi, Wildermuth & Dinkler The Greene Town Center 50 Chestnut Street, Suite 230 Dayton, Ohio 45440 (937) 427-8800 Fax: (937) 427-8816 Email: ldinkler@wsdohiolaw.com Attorney for Defendant
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August 22, 2008.

s/ **Michael R. Merz**
Chief United States Magistrate Judge